

GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT.

Labour Dispute.—Industrial Dispute between the Workmen and the Management of New Taj Mahal Cafe (P) Limited, Mangalore.

Award of the Industrial Tribunal, Bangalore—Published.

Read the following Papers:

(1) Letter No. I. T. No. 1059/72-73, dated 21st November 1972 from Sri Narayan Rai Kudoor, Presiding Officer, Industrial Tribunal Bangalore.

**BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE,
BANGALORE.**

Dated 20th November 1972.

PRESENT.

Sri Narayan Rai Kudoor B.A., B.L. ... Presiding Officer.

I. D. No. 67 of 1969.

**The workmen of New Taj Mahal Cafe (P) Ltd.,
Mangalore. ... I Party.**

Vs.

**The Management of New Taj Mahal Cafe (P) Ltd., Manga-
lore. ... II Party.**

APPEARANCES

**For the I Party:—Sri Prabhakar Ghate, President, Bharatiya
Mazdoor Sangh, Mangalore.**

**For the II Party:—Sri Putturaya, Advocate, and Secretary of
South Kanara Industrial and Commercial
Managements' Association, Mangalore.**

**Reference:—Government Order No. FCL 807 LLD 69, dated 8th
December 1969.**

AWARD

**The Government of Mysore, being of opinion, that an
industrial dispute exists between the workmen and the manage-**

ment of New Taj Mahal Cafe (P) Ltd., Mangalore, have referred the said dispute to this Tribunal for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes, Act, 1947, (Central Act No. XIV of 1947), as per their Order No. FCL 807 LLD 69 dated 8th December 1969 on the following points of dispute:—

“Are the workmen of M/s. New Taj Mahal Cafe (P) Ltd., Mangalore, justified in demanding the introduction of a gratuity scheme by the Management of M/s. New Taj Mahal Cafe (P) Ltd., Mangalore on the following terms:

Payment of one month's wages inclusive of cash equivalent of free food and tiffin for each year of service on the following occasions:—

- (i) on attainment of superannuation, old age, sickness mental or physical disability, etc.
- (ii) on the death of an employee while in service.
- (iii) on leaving the service after serving five years,
- (iv) on termination of service for whatever reason.

If not, to what other relief the workmen are entitled to.”

2. On receipt of the above Reference, it was registered as L. D. No 67 of 1969 on the file of this Tribunal. Workmen represented by the Secretary, Vaniyya Shramika Sangha, Felix Pai Bazaar, Mangalore, is the I Party and the Management of Messrs. New Tajmahal Cafe (P) Limited, Mangalore, is the II party to the dispute.

3. Notice of the dispute was issued to both the Parties. They entered appearance and filed their respective statement of demands relating to the points of dispute scheduled in the Order of Reference, one supporting the demand, and the other refuting the same.

4. On the pleadings, the following issues were framed by my learned predecessor:—

“1. Whether the dispute raised by the I Party is an Industrial Dispute.

2. Whether the Hotel Establishment of the II Party Management, is not an Industry covered by the

provisions of the Industrial Disputes Act, 1947 and the Rules made thereunder.

3. Whether the II Party-Management is covered and governed by the provisions of the Mysore Shops and Commercial Establishments Act?
4. Whether the I Party Union is entitled to raise the dispute in question?
5. Whether the Secretary of the Vajjiya Shramika Sangha has authority to raise the dispute in question?
6. Whether the demand of the workmen for introduction of Gratuity Scheme is not justified, as alleged by the II Party?
7. Whether the workers demand for introduction of Gratuity Scheme to all the employees without reference to the length of service or service record is illegal as alleged by the II Party?
8. Whether the demand for introduction of Gratuity Scheme based on consolidated wages is illegal as alleged by the II Party-Management?
- (9) Whether the workers demand for introduction of a scheme of gratuity retrospectively from 1st of July 1969 is tenable in law?
- (10) Whether the II Party Management has got financial capacity to meet the workers' demand for introduction of a Scheme of Gratuity?
- (11) To what reliefs are the Parties entitled?"

5 After the settlement of the Issues, the dispute was taken up for enquiry. The I Party examined two witnesses besides producing equal number of documents in support of their case. The II Party has also examined equal number of witnesses besides producing a few documents in support of the defence put forward by them in opposing the claim of the I Party-workmen. After hearing the arguments on both sides, the dispute was reserved for award. During the pendency of passing of the award the Central Government enacted the Payment of Gratuity Act, 1972, (Act 39 of 1972) (which will be hereinafter referred to as the Act) providing for compulsory introduction of Gratuity Scheme in all the factories and other establishments coming under the provisions of the Act, laying down a uniform pattern which came into force with effect from 16th September 1972 by means

of a Notification of even date published in the Gazette of India Extraordinary Part II Section 3 (ii) dated 16th September 1972.

6 The subject matter of the dispute covered under the present Order of Reference is also a demand by the I Party workmen for the introduction of a Gratuity Scheme in the II Party Establishment. As there was no enactment for the introduction of any Gratuity Scheme, the I Party-workmen raised a demand on the II Party Management regarding the introduction of a Gratuity Scheme which was finally referred to this Tribunal for adjudication since the parties did not agree on the subject. Before the final adjudication of the dispute, the Central Government came forward with the Act which provides for compulsory introduction of Gratuity Scheme in the pattern stipulated therein. The question posed for decision under the Order of Reference is whether the I Party workmen are justified in demanding the introduction of a Gratuity Scheme by the II Party in their establishment on the terms detailed in the Order of Reference. In view of coming into force of the provisions of the Act with effect from 16th September 1972, the II Party is bound to introduce a Gratuity Scheme on the terms stipulated in the Act whether the demand of the I Party-workmen is justified or not as the II Party Establishment, undoubtedly, attracts the provisions of the Act as it is a Hotel Establishment. Any decision rendered on the merits of the dispute which is for the introduction of a Gratuity Scheme will not be valid if it is not in conformity with the provisions of the Act after the same came into force. In that view, I feel, that it would serve no purpose in rendering a decision on the points covered under the Order of Reference on merits. The result would be the rejection of the Reference.

7 In the result, I pass an Award rejecting the Reference. There will be no order as to costs.

NARAYAN RAI KUDOOB,

Presiding Officer,

Industrial Tribunal, Bangalore.

ORDER

Bangalore, dated 1st December 1972.

S. O. 322.—WHEREAS by State Government Order No. FGL 807 SLD 69, dated 8th December 1969 the Industrial Dispute between the Workmen and the Management of New Taj Mahal Cafe (P) Limited, Mangalore was referred to the Industrial Tribunal, Bangalore for adjudication.

AND, WHEREAS, the Industrial Tribunal, has submitted to the State Government its award in respect of the said Industrial Dispute.

Now, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. FGL 237 LLA 72.]

By Order and in the name of the Governor of Mysore,

ANIRUDHA DESAI,

Under Secretary to Government,

Food, Civil Supplies and Labour Department.

1818